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HUTCHINSON & MASON PLLC
P.O. BOX 31686
RALEIGH, NC 27612

In re Application of:	:	
KLEIN, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/532,164	:	
PCT No.: PCT/EP2003/011825	:	
International Filing Date: 24 October 2003	:	
Priority Date: 25 October 2002	:	
Atty Docket No.: BASF.10025	:	
For: TERMITE-MONITORING DEVICE	:	
AND ASSOCIATED METHOD	:	

This decision is issued in response to the "Petition For Correction Of 371(c) Date Under 37 CFR 1.10" filed 16 March 2006, treated herein under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

On 24 October 2003, applicants filed international application PCT/EP2003/011825. The application claimed a priority date of 25 October 2002 and designated the United States. On 06 May 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 25 April 2005.

On 20 April 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

In August 2005, applicants filed a second submission that included an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

On 27 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying 15 August 2005 as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" and the "Date Of Completion Of All 35 U.S.C. 371 Requirements." On the same date, a filing receipt was issued identifying 15 August 2005 as the 371(c) date.

On 16 March 2006, applicants filed the petition considered herein. The petition asserts that the declaration herein was filed on 18 August 2005, not 15 August 2005, and that the correct date under 35 U.S.C. 371(c) is therefore 18 August 2005.

DISCUSSION

Applicants' second submission herein, which contained the declaration required to complete the 35 U.S.C. 371(c) requirements, included a Form PTO-1390 transmittal letter. This transmittal letter included a certification of mailing by "Express Mail" that identified the "Express Mail" label number (EV613033851US) and the deposit date (18 August 2005). The present petition includes a copy of "Express Mail" label number EV613033851US; this label bears a "date in" of 18 August 2005. In addition, the USPS tracking database confirms that the USPS accepted this "Express Mail" envelope on 18 August 2005.

Based on applicants' statements in the present petition, the "date in" on the "Express Mail" label, and the USPS tracking data, it is concluded that the second submission filed by applicants herein (including the declaration required to complete the 35 U.S.C. 371(c) requirements) was deposited with the USPS as "Express Mail" on 18 August 2005. Pursuant to 37 CFR 1.10(c), these materials are properly accorded a filing date of 18 August 2005.

CONCLUSION

Applicants' petition under 37 CFR 1.10(c) is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 27 September 2005 are hereby **VACATED**.

The National Stage Processing Branch of the Office of PCT Operations will be instructed to issue a corrected Notification of Acceptance (Form PCT/DO/EO/903) properly identifying **18 August 2005** as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" and the "Date Of Completion Of All 35 U.S.C. 371 Requirements."

In addition, a corrected filing receipt will be issued that correctly identifies the 35 U.S.C. 371(c) date as **18 August 2005**.



Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459